

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

CECILIA ORLOWSKI,

Charging Party,

-v-

WILLIAM STAFFELDT,

Respondent.

Case No.: 0072012076

**FINAL AGENCY DECISION
AND ORDER AFFIRMING
HEARINGS BUREAU DECISION**

Cecilia Orlowski (Orlowski) filed a complaint with the Department of Labor and Industry claiming discrimination against her by William Staffeldt (Staffeldt). That claim ended in a settlement agreement. Subsequently, Orlowski filed another complaint against Staffeldt alleging retaliation against her for participating in protected human rights activities. The Hearings Bureau (Bureau) held a contested case hearing pursuant to § 49-2-505, MCA. Following the hearing, the Bureau issued a decision that determined the actions by Staffeldt constituted retaliation against Orlowski. Staffeldt filed an appeal with the Montana Human Rights Commission (Commission). The Commission considered the matter on July 23, 2008. Gregory Van Horssen appeared on behalf of Staffeldt. Beth O'Halloran appeared on behalf of Orlowski.

On appeal, Staffeldt did not file a brief. He also failed to file a transcript or any other evidence regarding the prior proceeding. The parties also did not stipulate to portions of the record. Finally, although the parties did not stipulate to waive the oral argument, Staffeldt did not raise any issues of law at the oral argument. At the hearing,

Staffeldt's attorney represented to the Commission that Staffeldt wanted the Commission to know he did not raise any issues regarding the hearing officer's findings of fact because he could not afford the transcript, but he believed the hearing officer's findings were clearly erroneous. Orlowski's attorney asserted that the hearing officer's decision was not clearly erroneous and was correct as a matter of law. She also asserted the Commission was procedurally barred from considering any issues in the case.

After careful and due consideration, the Commission concludes the Bureau's decision in this matter is supported by competent substantial evidence and the conclusions of law are correct. The Commission **affirms** the Bureau's decision in its entirety and hereby adopts and incorporates the decision into this order.

A person who has exhausted all administrative remedies available within an agency and who is aggrieved by a final agency decision in a contested case is entitled to file a petition for judicial review within 30 days after service of the final agency decision. Mont. Code Ann. § 2-4-702. The petition must be filed in the district where the petitioner resides or has the petitioner's principal place of business, or where the agency maintains its principal office.

DATED this ____ day of July, 2008.

Ryan Rusche, Chair
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned employee of the Human Rights Bureau certifies that a true copy of the forgoing Human Rights Commission ORDER was served on the following persons by U.S. mail, postage prepaid, on July ____, 2008.

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